IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

Crl.MC.No. 606 of 2007(M)

CC.140/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD

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PETITIONER: ACCUSED NO.1

MOHAMMED NAZIR,S/O.LATE K.M.SAYED
MOHAMMED,K.M.S.MANZIL,CHANDAPURA,
COYALMANNAM,PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA,REP.BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.606 of 2007

Dated this the 6th day of March, 2007

ORDER

The petitioner is the 1st accused in a prosecution under Section 498 A I.P.C. Cognizance has been taken by the learned Magistrate. According to the petitioner, he has not received any summons. But the learned Magistrate has now issued a warrant of arrest against the petitioner to secure his presence.

2. The petitioner is willing to surrender before the learned Magistrate. But the petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. The petitioner, in these circumstances, prays that directions under Section 482 Cr.P.C may be issued to the learned Magistrate to release him on bail on the date of surrender itself.

3. I find no reason to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be

necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

H/O.

(R.BASANT, JUDGE)

rtr/-